

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHANE BRUGUIER,

Defendant.

3:25-CR-30007-ECS

FINAL JURY INSTRUCTIONS

INSTRUCTION NO. 1

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions. The instructions I am about to give you now are in writing and will be available to you in the jury room.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important.

All instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. 2

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. 3

I have mentioned the word “evidence.” “Evidence” includes the testimony of witnesses, documents and other things received as exhibits, any facts that have been stipulated—that is, formally agreed to by the parties, and any facts that have been judicially noticed— that is, facts which I say you may, but are not required to, accept as true, even without evidence.

Certain things are not evidence. I will list those things for you now:

Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence.

Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustain an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

Testimony that I strike from the record, or tell you to disregard, is not evidence and must not be considered.

Anything you see or hear about this case outside the courtroom is not evidence, unless I specifically tell you otherwise during the trial.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I will tell you when that occurs and instruct you on the purposes for which the item can and cannot be used.

Finally, some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You are instructed that you should not be concerned with those terms. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

INSTRUCTION NO. 4

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

You should judge the testimony of the Defendant in the same manner as you judge the testimony of any other witness.

INSTRUCTION NO. 5

The testimony of a witness may be discredited or, as we sometimes say, impeached by showing that he or she previously made statements which are different than or inconsistent with his or her testimony here in Court. The earlier inconsistent or contradictory statements are admissible only to discredit or impeach the credibility of the witness and not to establish the truth of these earlier statements made somewhere other than here during this trial. It is the province of the jury to determine the credibility of a witness who has made prior inconsistent or contradictory statements.

INSTRUCTION NO. 6

I instruct you that you must presume Mr. Bruguier to be innocent of the crime charged. Thus the Defendant, although accused of the crime in the Indictment, began the trial with a “clean slate” with no evidence against him. The Indictment, as you already know, is not evidence of any kind. The Defendant is not on trial for any act or crime not contained in the Indictment. The law permits nothing but legal evidence presented before the jury in Court to be considered in support of any charge against a defendant. The presumption of innocence alone, therefore, is sufficient to acquit Mr. Bruguier.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant, for the law never imposes on any defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence by cross-examining the witnesses for the Government.

It is not required that the Government prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is based upon reason and common sense – the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

Unless the Government proves, beyond a reasonable doubt, that Mr. Bruguier committed each and every element of the offense charged in the Indictment, you must find him not guilty of the offense. If the jury views the evidence as reasonably permitting either of two conclusions – one of innocence, the other of guilt – the jury must find the Defendant not guilty.

INSTRUCTION NO. 7

The crime of aggravated sexual abuse of a child, as charged in the Indictment, has four elements, which are:

***One*, on or about between January 13, 2015, and November 29, 2015, in Eagle Butte, in the District of South Dakota, the Defendant knowingly engaged in, or attempted to engage in, a sexual act with _____ ;**

***Two*, _____ was under the age of 12 years;**

***Three*, the offense was committed in Indian country; and**

***Four*, the Defendant is an Indian.**

The term “sexual act” means the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

It is not necessary for the United States to prove that the Defendant knew the victim had not attained the age of twelve years.

If all of these elements have been proved beyond a reasonable doubt as to the Defendant, then you must find the Defendant guilty of aggravated sexual abuse of a child as charged in the Indictment; otherwise, you must find the Defendant not guilty of aggravated sexual abuse as charged in the Indictment.

INSTRUCTION NO. 8

If you should unanimously find the Defendant not guilty of the crime of Aggravated Sexual Abuse as charged in the Indictment, or if, after reasonable efforts, you are unable to reach a verdict as to the crime charged in the Indictment, then you must proceed to determine whether the Defendant is guilty or not guilty of the crime of Abusive Sexual Contact under this instruction.

The crime of Abusive Sexual Contact, a lesser included offense of the crime of Aggravated Sexual Abuse as charged in the Indictment, has four elements, which are:

One, that on or about between January 13, 2015 and November 29, 2015, the Defendant did knowingly engage in, or attempt to engage in, sexual contact with
;

Two, that **had not attained the age of 12 at the time of the offense;**

Three, that the Defendant is an Indian; and

***Four*, that the offense took place in Indian country.**

The term “sexual contact,” means the intentional touching, through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person with an intent to abuse, humiliate, harass, or degrade her or with the intent to arouse or gratify the sexual desire of any person.

If all of these elements have been proved beyond a reasonable doubt as to the Defendant, then you must find the Defendant guilty of the lesser included offense of abusive sexual contact of _____, otherwise you must find the Defendant not guilty of this crime.

INSTRUCTION NO. 9

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the Defendant, and all the facts and circumstances in evidence which may aid in a determination of the Defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

INSTRUCTION NO. 10

The crime charged in the Indictment includes an attempt to engage in a sexual act. A person may be found guilty of an attempt if he intended to engage in a sexual act and voluntarily and intentionally carried out some act which was a substantial step toward engaging in a sexual act.

A substantial step must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the substantive crime. In order for behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the consummation of the crime and be of such a nature that a reasonable observer, viewing it in context, could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to violate the statute.

INSTRUCTION NO. 11

You have heard testimony that the Defendant made a statement to law enforcement. It is for you to decide:

First, whether the Defendant made the statement; and

Second, if so, how much weight you should give to it.

In making these two decisions, you should consider all the evidence, including the circumstances under which the statement may have been made.

INSTRUCTION NO. 12

Reasonable doubt is doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the Defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 13

The Indictment charges that the offense was committed “on or about” between January 13, 2015, and November 29, 2015. The United States must prove that the offense happened reasonably close to that timeframe but is not required to prove the alleged offense happened between those exact dates.

INSTRUCTION NO. 14

Counsel for the United States, counsel for the Defendant, and the Defendant have stipulated—that is, they have agreed—to the following:

- (1) That the Defendant is an Indian; and
- (2) That the place where the alleged offense is claimed to have occurred is in Indian country.

The Defendant has not, by entering this agreement or stipulation, admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the facts as stated above.

INSTRUCTION NO. 15

Your decision on the facts of this case should not be determined by the number of witnesses testifying for or against a party. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

INSTRUCTION NO. 16

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much weight as you think it deserves, considering the witness' education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NO. 17

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict—whether guilty or not guilty, must be unanimous. Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

Third, if the Defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the United States has proved its case beyond a reasonable doubt.

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or court security officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

Fifth, during your deliberations, you must not communicate with or provide any information to anyone other than by note to me by any means about this case. You may not use any electronic device or media, such as a smartphone or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, Snapchat, LinkedIn, Instagram, YouTube, X (formerly known as Twitter), or Truth Social, to communicate to anyone information about this case or to conduct any research about this case until I accept your verdict.

Sixth, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Finally, the verdict form is simply the written notice of the decision that you reach in this case. You will take this form to the jury room, and when each of you has agreed on the verdict, your foreperson will fill in the form, sign and date it, and advise the marshal or court security officer that you are ready to return to the courtroom.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. SHANE BRUGUIER, Defendant.	3:25-CR-30007-ECS VERDICT FORM
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We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

1. We find the Defendant, Shane Bruguier, _____ (fill in either “not guilty” or “guilty”) of aggravated sexual abuse of a child, as charged in the Indictment.
 - a. *Answer if, and only if, you found the Defendant “not guilty” or you are not able to reach a verdict after reasonable efforts as to question 1. If you find the Defendant “guilty” as charged in the Indictment, then leave this blank.*

We find the Defendant, Shane Bruguier, _____ (fill in either “not guilty” or “guilty”) of the lesser included offense of abusive sexual contact.

Dated April ____, 2026.

BY THE COURT:

Foreperson